

Report on the

State Board of Auctioneers

Montgomery, Alabama



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August 24, 2011

Senator Paul Bussman
Chairman, Sunset Committee
Alabama State House
Montgomery, AL 36130

Dear Senator Bussman,

This report was prepared to provide information for use by the Sunset Committee in conducting its review and evaluation of the operations of the **State Board of Auctioneers** in accordance with the ***Code of Alabama 1975***, Section 41-20-9.

The report contains unaudited information obtained from the management, staff, and records of the **State Board of Auctioneers**, in addition to information obtained from other sources.

Please contact me if you have any questions concerning this report.

Sincerely,

A handwritten signature in black ink, appearing to read "Ronald L. Jones", written in a cursive style.

Ronald L. Jones
Chief Examiner

Examiner:
Robin Hutcheson

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PROFILE

Purpose / Authority

The Board of Auctioneers was created by *Acts of Alabama*, Act No. 1973- 811 to establish qualification standards and to regulate persons who engage in "bid calling" for hire to conduct auctions for the purpose of selling real estate, goods, wares, merchandise, automobiles, livestock or other things of value. The board operates under authority of the *Code of Alabama 1975*, Sections 34-4-1 through 34-4-54.

| <u>Characteristics</u> | |
|------------------------------------|--|
| Members and Selection | 8 members appointed by the governor <i>Code of Alabama 1975</i> , Section 34-4-50(a) |
| Term | <ul style="list-style-type: none">• 5 year terms, staggered• Limited to two consecutive terms of office• Can hold office until a successor is appointed. <i>Code of Alabama 1975</i> , Section 34-4-50(a) |
| Qualifications | 7 auctioneers 1 consumer member The auctioneer members must be of good moral character and must be licensed and actively engaged in the auction business for at least five years prior to appointment. All members must be residents and citizens of Alabama and must have been residents and citizens of Alabama five years before appointment. <i>Code of Alabama 1975</i> , Section 34-4-50(a)(b) |
| Racial Representation | No specific statutory requirement No minority race members |
| Geographical Representation | One auctioneer member is appointed from each congressional district. The consumer member is appointed from the state at-large. <i>Code of Alabama 1975</i> , Section 34-4-50(a) |
| Consumer Representation | One consumer member position. One consumer member is serving <i>Code of Alabama 1975</i> , Section 34-4-50(a) |

| | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
|-----------------------------|---|------------|-----------|------------|----------|----------|---------|----|----|---|-----|---------|----|----|---|-----|---------|----|----|---|-----|---------|----|----|---|-----|--------------------------|------------|------------|-----------|------------|
| Other Representation | <p>The board shall reflect the racial and gender composition of licensed auctioneers in the state.</p> <p><i>Code of Alabama 1975</i>, Section 34-4-50(a)</p> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Compensation | <p>Members receive compensation of three hundred dollars (\$300) per day and travel allowance as is paid to state employees for each day spent on work made necessary by the auctioneer licensing law.</p> <p><i>Code of Alabama 1975</i>, Section 34-4-53</p> <p>Board members are entitled to receive four (4) hours continuing education credit every two years while serving on the board.</p> <p><i>Rule 150-X-1-.13(e)</i></p> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <u>Operations</u> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Administrator | <p>Keith Warren, President of Warren & Co. Inc., serves as the board’s executive director as a part of the board’s professional services contract with Warren & Co. Warren & Co. also provides administrative services to the board under the same contract. The contract amount is \$75,000 annually.</p> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Location | <p>610 South McDonough St. Montgomery, AL 36104</p> <p>Office Hours Monday – Friday 8:30 am – 4:30 pm</p> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Examinations | <p>Computer based exams developed by the board are administered and graded by PROV Inc. There is no national examination. Exam fees of \$100 per exam are paid to the board of which \$90 per exam is paid to PROV. Exams are administered weekly in Huntsville, Birmingham, Montgomery, Mobile and Dothan.</p> <p>Pass / Fail Rates – Past 4 Calendar Years</p> <table><tr><td></td><td># Taken</td><td># Passed</td><td># Failed</td><td>% Passed</td></tr><tr><td>2007 CY</td><td>25</td><td>24</td><td>1</td><td>96%</td></tr><tr><td>2008 CY</td><td>26</td><td>25</td><td>1</td><td>96%</td></tr><tr><td>2009 CY</td><td>35</td><td>30</td><td>5</td><td>86%</td></tr><tr><td>2010 CY</td><td>48</td><td>44</td><td>4</td><td>92%</td></tr><tr><td>Cumulative Totals</td><td>134</td><td>123</td><td>11</td><td>92%</td></tr></table> <p>A schedule of pass/fail information for in-state educational institution graduates was not available. Jacksonville State University and Troy University at Dothan are the only in-state institutions that offer auctioneering courses approved by the board.</p> <p><i>Information obtained from staff</i></p> | | # Taken | # Passed | # Failed | % Passed | 2007 CY | 25 | 24 | 1 | 96% | 2008 CY | 26 | 25 | 1 | 96% | 2009 CY | 35 | 30 | 5 | 86% | 2010 CY | 48 | 44 | 4 | 92% | Cumulative Totals | 134 | 123 | 11 | 92% |
| | # Taken | # Passed | # Failed | % Passed | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 2007 CY | 25 | 24 | 1 | 96% | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 2008 CY | 26 | 25 | 1 | 96% | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 2009 CY | 35 | 30 | 5 | 86% | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 2010 CY | 48 | 44 | 4 | 92% | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Cumulative Totals | 134 | 123 | 11 | 92% | | | | | | | | | | | | | | | | | | | | | | | | | | | |

| | |
|--------------------|--|
| Licensees | <p>Apprentice Licensees – 111 Auctioneer Licensees - <u>739</u> Total 850 Licensees*</p> <p><i>*As of April 2011</i></p> <p><i>Information obtained from staff.</i></p> |
| Reciprocity | <p>The board may recognize a license issued by any other state to a resident of this state or a nonresident auctioneer or apprentice auctioneer if the other state reciprocates with Alabama in like manner and if the licensing requirements of the state include the passing of an examination of equal or higher standards than those required by this state.</p> <p><i>Code of Alabama 1975, Section 34-4-25</i></p> <p>The board has reciprocity agreements with Arkansas; Florida; Georgia; Indiana; Illinois; Kentucky; Louisiana; Mississippi; N. Carolina; Ohio; Pennsylvania; Carolina; Tennessee; Texas; Virginia; and W. Virginia.</p> <p><i>Information obtained from staff. A list of agreements is also listed on the board's Internet website.</i></p> |
| Renewals | <p>Renewals:</p> <ul style="list-style-type: none"> • Annual • Licenses expire on September 30 of each year following issuance <p><i>Code of Alabama 1975, section 34-4-21(e)</i></p> <p>Grace Period:</p> <ul style="list-style-type: none"> • 60 days after the expiration date, upon payment of the renewal fee and a late fee of twenty-five dollars (\$25) for apprentices and fifty dollars (\$50) for auctioneers. <p><i>Code of Alabama 1975, Section 34-4-21(e)</i></p> <p>Percentage of on-line renewals for the past four years:</p> <ul style="list-style-type: none"> • 2007 - 17% • 2008 – 25% • 2009 – 26% • 2010 – 22% <p><i>Information obtained from the staff.</i></p> |

| | |
|-----------------------------|---|
| Continuing Education | <p>Annual continuing education is required by law for license renewal. Licensees 65 years or older are exempt.</p> <p><i>Code of Alabama 1975</i>, Section 34-4-21(f)</p> <p>Licensees are required to receive 6 clock hours every two years. Board members are entitled to four hours every two years by virtue of their position as board members.</p> <p><i>Board Rule</i> 150-X-1-.13(a)</p> |
| Employees | The board does not have employees. The board contracts with Warren & Co. Inc. of Montgomery, AL. for administrative and investigative services. |
| Legal Counsel | Dana Billingsley, a private attorney, provides legal services at \$125.00 per hour not to exceed \$46,870.00 per year under contract with the board. |
| Subpoena Power | None, except as provided by the authority in the Administrative Procedure Act in the <i>Code of Alabama 1975</i> Section 41-22-12 for hearings in contested cases. |
| Internet Presence | <p>http://www.auctioneer.alabama.gov/</p> <ul style="list-style-type: none"> • Board information including names and email addresses of current board members, the executive director and the executive assistant. • Rules and Regulations • The agency's Law • Checklists for becoming an auctioneer <ul style="list-style-type: none"> ➤ Resident Auctioneer ➤ Apprentice ➤ Reciprocal Auctioneer ➤ Non-Resident Auctioneer (Non-Reciprocal) • Study Guide for the Licensing Exam • Information Bulletin • A feature to search for licensed auctioneers • Calendar of Events • Complaint Form • Education Providers • Newsletters • Other State Licensing Boards that reciprocate with the board • Change address form • Disciplinary Actions <ul style="list-style-type: none"> ➤ Outstanding Fines ➤ Disciplinary Actions taken in the last 5 years • Official Board Minutes • AG Opinions |

| | |
|---------------------------------------|--|
| Attended Board Member Training | 3 Board Members Executive Director 3 Executive Assistants |
| <u>Financial</u> | |
| Source of Funds | Licensing fees |
| State Treasury | Yes, Special Revenue Fund 541 |
| Required Distributions | None |
| Unused Funds | The <i>Code of Alabama 1975</i> , Section 34-4-54 requires the board to deposit all of its funds into the General Fund of the State Treasury into an account to be known as the "Board of Auctioneers Account." However, the board operates from a separate fund outside the General Fund in conflict with the statute. In the statutory scheme, unexpended, unobligated balances at year end would automatically revert to the General Fund. In actuality, the board retains year end balances. This condition has been an audit finding since 2007. (<i>See Status of Prior Findings / Significant Issues</i>) |

SIGNIFICANT ISSUES

Significant Issue 2011– 01

Questionnaires were sent to 100 licensed auctioneers. Of the 46 who responded, 23 or (50%) did not consider continuing education necessary for competent practice. The board requires six (6) clock hours of instruction every two years.

Significant Issue 2011– 02

Questionnaires were sent to all 8 board members. Of the five (5) who responded, three (3) stated that the most significant issue currently facing the board was amending the board's statutes to include regulatory authority over internet auctions. The remaining two members stated that the law needs clarification and definition changes. The board submitted SB 444, sponsored by Senator Trip Pittman, in the 2011 regular legislative session to amend the board's statutes. The bill was unsuccessful. The bill included the following provisions:

- Redefine the term auctioneer
- Change the licensing period from one year to two years
- Establish an inactive license status
- Provide for reciprocity
- Suspend or revoke a license for a pattern of frivolous, unfounded complaints
- Provide for a firm license
- Provide further for conducting investigations and hearings on complaints
- Provide for quorums
- Regulate internet auctions

- Allow the board to deposit funds in the board's Special Revenue Fund (*This provision would eliminate the continuing prior finding 2007-02 presented in the STATUS OF PRIOR FINDINGS/SIGNIFICANT ISSUES*)

Significant Issue 2011- 03

For each of the past four fiscal years the board's expenditures have exceeded its receipts, resulting in a significantly diminished fund balance. At the end of the 2010 fiscal year the board had no funds that were not reserved for obligations. In three of the last four fiscal years, the board's expenditures for professional services have exceeded its total receipts. Professional services consist of payments to Warren & Company for facilities and administrative services and payments to the board's legal counsel. Both provide services to the board under professional services contracts.

At the end of 2010 fiscal year, all fees were set at the maximum amount allowed by law, except for the apprentice auctioneer license fee and the auctioneer license fee. In February 2011, the board increased its apprentice auctioneer license fee by \$25.00 to its statutory maximum of \$100 and increased its auctioneer license fee by \$25.00 to \$150.00 (maximum \$250). The *Code of Alabama 1975*, Section 34-4-21(d) limits licensure fee increases to \$25.00 per year. Licenses are renewed annually.

If the number of licensees remains steady at the same level as in the 2010 fiscal year, the fee increases should yield additional receipts of approximately \$21,000 annually. Expenditures have exceeded receipts in the 2009 and 2010 fiscal years by \$19,151.50 and \$16,678.76, respectively.

Significant Issue 2011-04

There is nothing in the law which specifies the period during which license renewal can occur before a license expires, although the law refers to such a period. The *Code of Alabama 1975*, Section 34-4-21(e) states that, "All licenses shall expire on September 30 of each year following issuance thereof and may be renewed upon payment of the appropriate license fee as required by this chapter. Renewal of a license may be effected at any time during the months indicated preceding the date of expiration. No examination shall be required for the renewal of any license, unless the license has been revoked or suspended. If a licensee fails to renew his or her license by the deadline of each year, he or she may have his or her license renewed within 60 days after the expiration date, upon payment of the required fee and a late fee of twenty-five dollars (\$25) for apprentices and fifty dollars (\$50) for auctioneers. If a licensee elects not to pay the penalty and renew his or her license, he or she shall submit an application, pay the examination fee, and take the examination required for new licensees."

We find no language in the law which describes the months that could be referred to by the words "months indicated". The board's executive director stated that he does not know what "months indicated" means, and that the board has never utilized that language in any fashion.

STATUS OF PRIOR FINDINGS/SIGNIFICANT ISSUES

Prior Finding 2007– 02

The board does not deposit its receipts into a General Fund account, as required by law. The *Code of Alabama 1975*, Section 34-4-54 provides that, “Within 60 days following April 4, 1988, and thereafter, the board shall deposit all said funds of the board *into the General Fund* of the State Treasury into an account hereby established to be known as the "Board of Auctioneers Account.”

Amounts deposited into the General Fund become a part of the state’s general revenues and are not preserved for the use of any specific agency. Agencies that operate from the General Fund are provided with accounts inside the General Fund from which they spend amounts appropriated to them by the legislature. At the end of the year, any unobligated balance of appropriations is cancelled. If the board operated according to its law, it would operate in this manner. However, the board deposits its receipts into a separate fund outside the General Fund, and unexpended year-end balances remain in the fund for future use by the board. Although this is the normal method of operation for licensing/regulatory boards in Alabama, it is not in compliance with the board’s enabling statutes.

SB 331 of the 2007 Regular Legislative Session and SB 459 of the 2009 Regular Legislative Session would have corrected the discrepancy by amending the law to authorize a separate fund for the board. However, the bills did not become law.

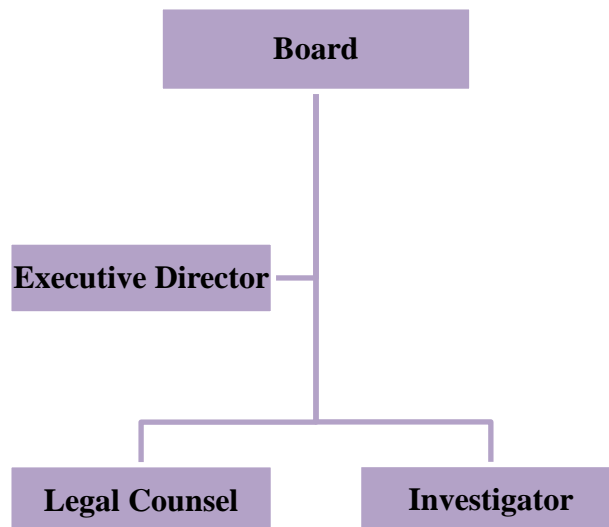
Prior Recommendation

The board should continue to seek corrective legislation.

Current Status

There has been no change. The board continues to operate from a separate fund outside the General Fund in conflict with statutes. Senator Trip Pittman introduced SB 444 in the 2011 regular legislative session which included an amendment to allow the board to operate from a separate fund. The bill did not become law.

ORGANIZATION



PERSONNEL

The board has no direct employees. Warren and Company, Inc. provides administrative and investigative services to the board, as well as an executive director, under contract with the board. The annual contract amount of \$75,000 is paid to Warren and Company in monthly installments of \$6,200. The current contract expires September 30, 2011. Warren and Company maintains the board's records and provides meeting space for the board at its location at 610 South McDonough St. Montgomery, AL.

Legal Counsel

The board has contracted with Dana Billingsley, a private attorney, for legal services at the rate of \$125 per hour, not to exceed \$46,870, per year, plus necessary expenses up to \$2,000 per year. The current contract expires September 30, 2011.

PERFORMANCE CHARACTERISTICS

Number of Licensees per Employee – N/A - The board has no employees. Its administrative functions are carried out by Warren & Company, under contract with the board.

Number of Persons per Licensee in Alabama and Surrounding States

| | Population ^a | Number of Apprentice Auctioneers* | Number of Auctioneers* | Persons per Apprentice Auctioneer | Persons per Auctioneer |
|--------------------------|-------------------------|---|---------------------------|---|---------------------------|
| Alabama | 4,779,736 | 111 | 739 | 43,061 | 6,468 |
| Florida ¹ | 18,801,310 | -- | 1859 | n/a | 10,114 |
| Georgia ² | 9,687,653 | -- | 1009 | n/a | 9,601 |
| Mississippi ² | 2,967,297 | -- | 627 | n/a | 4,733 |
| Tennessee ¹ | 6,346,105 | -- | 1791 | n/a | 3,543 |

^a2010 Census Data

*As of April 25, 2011

¹Florida and Tennessee do not separate Apprentice Auctioneers and Auctioneers

²Georgia and Mississippi do not license Apprentice Auctioneers

Information obtained from staff.

Operating Disbursements per Licensee - \$164.67

Notification to Licensee of Board Decisions to Amend Administrative Rules

The board complied with notification procedures prescribed in the state's Administrative Procedure Act, in the *Code of Alabama 1975*, Section 41-22-5(a), which includes publication of proposed rules in the state's *Administrative Monthly*, and public hearings on proposed rules. Licensees are not specifically notified of proposed changes.

COMPLAINT HANDLING

The *Code of Alabama 1975*, Sections 34-4-29 through 34-4-33 provide for the investigation of written complaints filed with the board concerning alleged violations the auctioneer licensing law and administrative rules adopted by the board.”

Complaint Procedures*

| | |
|--|---|
| Initial Contact/Documentation | Any person can file a complaint, including board members. The board receives complaints by mail, email, fax, or hand delivery. No specific form is required, however one is provided on the board’s website. |
| Anonymous Complaint | The board does not accept anonymous complaints. All complaints by law must be in writing but do not need to be notarized. |
| Investigative Process(s) | The complaint is reviewed by the executive director and legal counsel to see if it falls within the jurisdiction of the board. Once jurisdiction is confirmed, the complaint is submitted to the board’s investigator who investigates the complaint and submits a report to the executive director. |
| Probable Cause Determination | An investigative committee, consisting of the executive director, general counsel, the investigator, and a board member (chosen from the congressional district where the complaint is generated), reviews the complaint and the investigator’s report to determine if there is probable cause to believe that a violation of the licensing law or the board’s administrative rules has occurred. If no probable cause is found, no further action is taken. |
| Resolution without formal Hearing | If probable cause exists, a settlement is drafted by the investigative committee and offered to the licensee, accompanied by a notice of violation. If the licensee accepts the settlement, the settlement is submitted to the board for approval. If the settlement is approved, no further action is taken. |
| Formal Hearing | <p>If a settlement cannot be reached, a formal hearing is scheduled before a hearing officer and the board. The hearing officer presides over the hearing and provides the board with a recommendation. The board may adopt, amend, or reject the recommendation or take other action. A final order of the board’s decision is drafted by the executive director and mailed to the defendant.</p> <p>The board member who served on the investigative committee for the complaint which resulted in the hearing cannot ask or answer questions or participate in the board’s decision.</p> |

| | |
|--|--|
| Notification of Resolution to the Complainant | The complainant is notified in writing of the resolution of the complaint, and of the action taken against the licensee. |
|--|--|

**Information obtained from the executive director.*

| Year / Number Received | Schedule of Complaints Resolved 2007 through 2010 FY(and current year) | | | | | |
|--|---|------|------|------|------|---------|
| | Year / Number Resolved | | | | | |
| | 2007 | 2008 | 2009 | 2010 | 2011 | Pending |
| 2007 / 9 | 4 | 5 | -- | -- | | 0 |
| 2008 / 19 | | 8 | 11 | -- | | 0 |
| 2009 / 9 | | | 5 | 3 | 0 | 1* |
| 2010 / 14 | | | | 5 | 3 | 6 |
| 2011/ 3 ¹ | | | | | 0 | 3 |
| ¹ As of May 10, 2011 | | | | | | |
| <i>Information obtained from staff.</i> | | | | | | |
| <i>*Resolution of this complaint is delayed pending conclusion of litigation in Tennessee.</i> | | | | | | |

Average Time to Resolve Complaints

2007FY – 173.56 average days open

2008FY – 211.16 average days open

2009FY* - 166.22 average days open

2010FY* - 276.79 average days open

Total 827.73 / 4 years = **206.93** average days open

**Includes complaints still open as of May 10, 2011*

REGULATION IN CONJUNCTION WITH OTHER ENTITIES

The *Code of Alabama 1975*, Section 34-27-30(5) requires auctioneers of real estate to also be licensees of the Alabama Real Estate Commission.

SMART GOVERNING

2010 SMART Quarterly Performance Report

| GOALS | | | COMMENTS | |
|---|--------------------------------|---------------|---|--|
| To provide services on-line so that 50% of license renewals are processed via the web by 2010 | | | The goal's target is to be achieved within the current year. Goals are by definition long-term, multi-year targets. | |
| OBJECTIVES | UNIT OF MEASURE | TARGET | REPORTED | COMMENTS |
| Increase number of renewal applications processed by 20%. | Percentage of on-line renewals | 20% | 22% | The objective statement is not consistent with the performance target. An increase of online renewal applications by 20% over the previous year's percentage of reported online renewal applications (26%) yields a performance target of 31.2% rather than 20%. |

2011 SMART Quarterly Performance Report

| GOALS | | | COMMENTS | |
|---|--------------------------------|---------------|---|---|
| To provide services on-line so that 50% of license renewals are processed via the web by 2011 | | | The goal's target is to be achieved within the current year. Goals are by definition long-term, multi-year targets. | |
| OBJECTIVES | UNIT OF MEASURE | TARGET | REPORTED | COMMENTS |
| Increase number of renewal applications processed by 50%. | Percentage of on-line renewals | 50% | N/A- year not yet complete | The objective statement is not consistent with the target. An increase of online renewal applications by 50% over the previous year's percentage of online renewal applications (22%) yields a target of 33% rather than 50%. |

FINANCIAL INFORMATION

Source of Funds – Licensing fees

Funds / Accounts Description -

The board operates through the State Treasury from Special Revenue Fund 0541 which was established by the *Code of Alabama 1975*, Section 34-4-54 as the board's operating fund. Fund 0541 is used to accumulate and disburse all fees, fines, charges, and other money collected by the board. The board retains unobligated fund balances at year end which is in conflict with the Auctioneers Statutes. (*See Status of Prior Findings/Significant Issues section of this report*).

Schedule of Fees

| Fee Type / Purpose | Statutory Authority | Rule | Amount Authorized¹ | Amount Prior to 2/11/1011 | Current Amount |
|---------------------------------------|----------------------------|------------------------------|--|--|--|
| Reciprocal Application Processing Fee | 34-4-21(a) | Appendix I | \$150 | \$150 | \$150 |
| Apprentice Annual Licensure Fee | 34-4-21(d) | Appendix I | \$100 | \$75 | \$100 |
| Auctioneer Annual Licensure Fee | 34-4-21(d) | Appendix I | \$250 | \$125 | \$150 |
| Examination Fee | 34-4-21(a) | Appendix I | \$100 per exam | \$100 per exam | \$100 per exam |
| Change of Address Fee | 34-4-21(i) | 150-X-1-.14(c) Appendix I | \$5 | \$5 | \$5 |
| Fine for Late Renewal – Apprentice | 34-4-21(e) | Appendix I | \$25 | \$25 | \$25 |
| Fine for Late Renewal - Auctioneers | 34-4-21(e) | Appendix I | \$50 | \$50 | \$50 |
| Administrative Fines | 34-4-29(e) | 150-X-1-.11 | Not less than \$200 or more than \$500 per violation | Not less than \$200 or more than \$500 per violation | Not less than \$200 or more than \$500 per violation |

¹ The *Code of Alabama 1975*, Section 34-4-21(d) states that, “The license fees for an auctioneer shall not be increased more than twenty-five dollars (\$25) in any given year.”

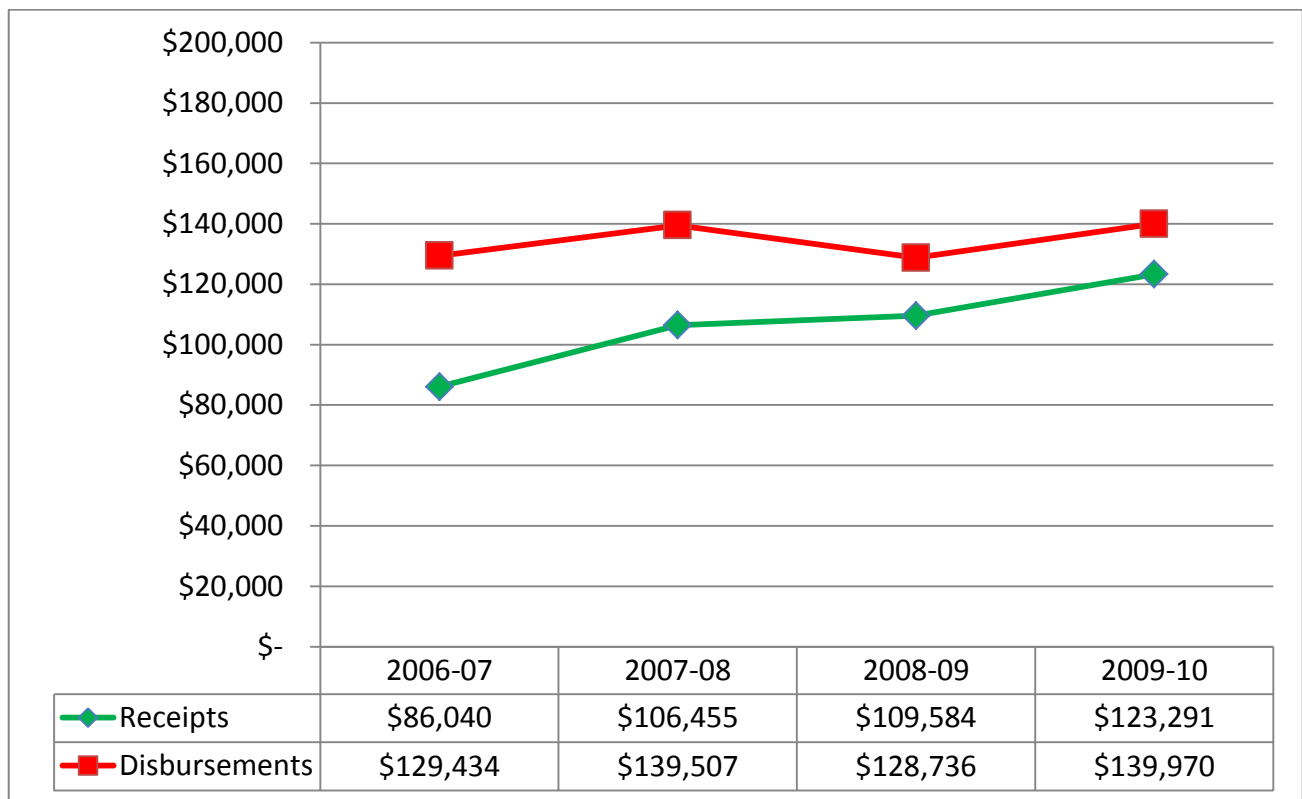
Schedule of Receipts, Disbursements, and Balances

October 1, 2006 – September 30, 2010

| | 2009-10 | 2008-09 | 2007-08 | 2006-07 |
|--|----------------|----------------|----------------|----------------|
| Receipts | | | | |
| License and Permit Fees | \$ 123,166.25 | \$ 109,584.15 | \$ 106,450.00 | \$ 85,920.00 |
| Bad Check Receivable | 125.00 | - | 5.00 | 120.00 |
| Total | 123,291.25 | 109,584.15 | 106,455.00 | \$ 86,040.00 |
| Disbursements | | | | |
| Personnel Costs | 6,900.00 | 7,800.00 | 9,000.00 | 7,800.00 |
| Employee Benefits | 527.85 | 596.70 | 688.50 | 596.70 |
| Travel In-State | 1,978.65 | 2,770.60 | 5,440.74 | 4,327.58 |
| Travel Out-of-State | 300.00 | 1,581.90 | 2,774.69 | 2,833.39 |
| Rentals & Leases | 33.18 | 2,194.13 | 860.99 | 1,421.66 |
| Utilities and Communications | 2,667.94 | 2,111.53 | 4,652.92 | 2,438.72 |
| Professional Services(a) | 123,317.17 | 107,120.37 | 109,711.18 | 104,915.16 |
| Supplies, Materials and Operating Expenses | 4,245.22 | 4,560.42 | 6,377.59 | 5,100.66 |
| Total | 139,970.01 | 128,735.65 | 139,506.61 | 129,433.87 |
| Deficiency of Receipts Under Disbursements | (16,678.76) | (19,151.50) | (33,051.61) | (43,393.87) |
| Cash Balance at Beginning of Year | 52,402.42 | 71,553.92 | 104,605.53 | 147,999.40 |
| Cash Balance at End of Year | 35,723.66 | 52,402.42 | 71,553.92 | 104,605.53 |
| Reserved for Unpaid Obligations | (35,723.66) | (38,769.63) | (33,929.28) | (25,257.71) |
| Available Cash Balance at End of Year | \$ - | \$ 13,632.79 | \$ 37,624.64 | \$ 79,347.82 |

(a) The increase in Professional services in from FY 2009 to FY 2010 is due in part to the 12% (\$9,000) increase in fees for administrative services.

Operating Receipts vs. Operating Disbursements (Chart)



QUESTIONNAIRES

Board Member Questionnaire

Letters requesting participation in our survey was sent to all 8 board members, of which 5 participated in the survey. The percentages are only of those who responded to the question.

- 1. What are the most significant issues currently facing the Board of Auctioneers and how is the board addressing these issues?**

Respondent 1 “The board has limited control in the pursuit of unlicensed person trying to be auctioneers.”

Respondent 2 “The most significant issue is the need for a new up to date auction code. We are currently working on new legislation that will hopefully pass in the next legislative session.”

Respondent 3 “Sufficient funds to carry out the duties of the board. We are addressing it by proposed legislation to charge or recoup investigative and administrative law procedural costs from those found guilty of the law through this process.”

Respondent 4 “Regulating auctions by the use of internet. The board is working on legislation to obtain the authority to regulate internet auctions.”

Respondent 5 “Of major concern to the Board is the unregulated auction activity currently occurring on the internet. The board is working on legislation to obtain the authority to regulate internet auction.”

- 2. What changes to the Auctioneer’s laws are needed?**

Respondent 1 “The board needs more control over ‘on line’ bidding and internet auctions E-Bay.”

Respondent 2 “A revamp of old outdated language and inclusion of new language to address current changes in the industry.”

Respondent 3 “The law needs clarification and definition changes.”

Respondent 4 “Regulatory authority over internet auctions.”

Respondent 5 “The State Board of Auctioneers policies are in the best interest of the general public and should add laws to regulate any form of property disposition thru internet auction like e-bay for example.”

3. Is the Board of Auctioneers adequately funded?

| | | |
|-----------------|----------|---------------|
| Yes | 0 | 0.0% |
| No | 4 | 100.0% |
| Did not respond | 1 | |

Respondent 3 “See #1”

4. Does the Board of Auctioneers receive regular reports on the operations of the board from the chief administrative officer?

| | | |
|------------|----------|---------------|
| Yes | 5 | 100.0% |
| No | 0 | 0.0% |

5. Is the Board of Auctioneers adequately staffed?

| | | |
|------------|----------|---------------|
| Yes | 5 | 100.0% |
| No | 0 | 0.0% |

6. Has the Board of Auctioneers experienced any significant changes to its operations?

| | | |
|-----------|----------|---------------|
| Yes | 0 | 0.0% |
| No | 5 | 100.0% |

7. Does the Board of Auctioneers plan any significant changes in its operations?

| | | |
|-----------------|----------|--------------|
| No | 3 | 75.0% |
| Unknown | 1 | 25.0% |
| Did not respond | 1 | |

Respondent 3 “Depends on the passing of proposed legislation.”

Auctioneer Licensee Questionnaire

Letters requesting participation in our survey was sent to 100 Auctioneer Licensee holders, of which 46 participated in the survey. The percentages are only of those who responded to the question.

- 1. Do you think regulation of your profession by the Board of Auctioneers is necessary to protect public welfare?**

| | | |
|------------|-----------|--------------|
| Yes | 39 | 84.8% |
| No | 5 | 10.9% |
| Unknown | 2 | 4.3% |

Respondent 14 “Very much so.”

- 2. Do you think any of the Board of Auctioneer’s laws, rules, and policies are an unnecessary restriction on the practice of your profession?**

| | | |
|------------|-----------|--------------|
| Yes | 9 | 19.6% |
| No | 29 | 63.0% |
| Unknown | 2 | 4.3% |
| No Opinion | 6 | 13.1% |

Respondent 14 “Not at all”

Respondent 24 “Sometimes yes – when I have to take time out for cont. ed. Which I think is stupid for any state.”

Respondent 33 “Some are but most are no.”

- 3. Do you think any of the Board of Auctioneers Requirements are irrelevant to the competent practice of your profession?**

| | | |
|------------|-----------|--------------|
| Yes | 12 | 26.1% |
| No | 27 | 58.7% |
| Unknown | 2 | 4.3% |
| No Opinion | 5 | 10.9% |

Respondent 32 “Continue Ed.”

Respondent 33 “Some but not most”

4. Are you adequately informed by the Board of Auctioneers of changes to and interpretations of board positions, policies, rules, and laws?

| | | |
|------------|-----------|--------------|
| Yes | 32 | 69.6% |
| No | 9 | 19.6% |
| Unknown | 3 | 6.5% |
| No Opinion | 2 | 4.3% |

5. Has the Board of Auctioneers performed your licensing and renewal in a timely manner?

| | | |
|------------|-----------|--------------|
| Yes | 45 | 97.8% |
| No | 1 | 2.2% |

6. Do you consider mandatory continuing education necessary for competent practice?

| | | |
|------------|-----------|--------------|
| Yes | 19 | 41.3% |
| No | 23 | 50.0% |
| Unknown | 1 | 2.2% |
| No Opinion | 3 | 6.5% |

Respondent 1 “No not really, Except when new legislation concerning auctions or auctioneers is passed into law.”

Respondent 14 “Certainly not yearly.”

Respondent 44 “After a period of time in the Auction business one should be able to teach a class – 20 + years in the business should be exempt.”

7. Has the Board of Auctioneers approved sufficient providers of continuing education to ensure your reasonable access to necessary continuing education hours?

| | | |
|------------|-----------|--------------|
| Yes | 27 | 58.7% |
| No | 8 | 17.4% |
| Unknown | 6 | 13.0% |
| No Opinion | 5 | 10.9% |

Respondent 14 “Out of state, they take ours.”

Respondent 24 “I get cont. ed 1 time a year at the Nashville Auc. School. I have 9 auc. Lic. I get them taken care of in TN.”

8. What do you think is the most significant issue(s) currently facing your profession in Alabama and what is the Board of Auctioneers doing to address the issue(s)?

Respondent 1 “To me it’s the lack of communication between the board & auctioneers, & when you call most of the time it’s as if you’re a burden. But when it’s time to renew its different.”

Respondent 2 “Regulation of on line auctions. Board is look at adding regulations to law governing on line auctions.”

Respondent 3 “Unlicensed auctioneers doing business. Do not know.”

Respondent 4 “The board of auctioneers will not act on an anonymous tip or even a publication showing an unlicensed auctioneer or auction company. We as auctioneers following all the rules set forth by the state should not have to be law enforcement for the board also. We should be able to report unlicensed activity and be board should investigate.”

Respondent 5 “Maintain reciprocity with other states if the law is eliminated.”

Respondent 6 “On line auctions.”

Respondent 7 “In my view, the current issue that must be addressed is the emergence of mom and pop auction barns. They are unlicensed in most cases from a business standpoint as well as licensed auctioneers. In some instances, the food merchandise that is sold across the block is out of date and that included canned, packaged, as well as frozen food items. It is necessary for the enforcement division of the Board of Auctioneers to diligently and forcefully control these activities. By in large, most auctioneers in the State of Alabama are striving to become more professional in their auction business. These fly by night small businesses make it very difficult for auctioneers to follow rules and regulations and maintain a viable business.”

Respondent 8 “Making auctioneer responsible for auction houses, when bid calling for other auctions. The board is doing nothing to rescind this.”

Respondent 10 “To much regulating”

Respondent 11 “N/A”

Respondent 13 “They do a good job. Don’t pick on them.”

Respondent 14 “I live in GA.”

Respondent 15 “None.”

Respondent 16 “I think the C.E. requirement is a time waster. The topics are redundant and not at all cutting edge.”

Respondent 17 “There are too many auction that doesn’t have license, and nothing is done”

Respondent 18 “None.”

Respondent 19 “Unknown.”

Respondent 20 “Enforcement of laws, rules and policies. Who is out in the field making sure that these laws in place are being followed?”

Respondent 22 “1 – License for the entire USA”

Respondent 23 “unlicensed auctioneers, unknown”

Respondent 24 “N/A”

Respondent 28 “Clearly the biggest issue is the fact that software providers such as Auctionpoint.com are aggressively soliciting brokers who are NOT licensed auctioneers and are actively performing auction services without auctioneer licenses. The Alabama Auctioneers Commission and others have turned a blind eye to this egregious practice which is not in the interest of protecting Alabama consumers from unlicensed auction activity by firms who are not knowledgeable in auction law.”

Respondent 30 “Auctioneers practicing w/o licenses – ‘no policing.’”

Respondent 31 “Unlicensed auctioneers / unlicensed auctions auction houses in this area are using non licensed auctioneers or auctioneers that have no liability to their auctions.

Respondent 33 “No opinion.”

Respondent 34 “Truthful & honest auctioneers.”

Respondent 35 “Due to the fact that I am not currently actively working in the business I am not up to speed on the issues facing the profession. However, I have full confidence in the board to resolve any issues that may come up.”

Respondent 36 “No opinion.”

Respondent 38 “Tracking of unlicensed auction firms or companies. Don’t know what board is doing.”

Respondent 39 “None.”

Respondent 41 “No opinion – I keep my license because I have had them for 30 yrs.”

Respondent 42 “Not adequately being informed of changes – rules & regulations of AL Auctioneering rules & laws.”

Respondent 43 “No opinion”

Respondent 44 “Current laws on Absolute Auction and Real Estate Auctions”

Respondent 46 “Making sure that the auctioneers pay their consigners in a timely fashion.”

No Response 11

9. Do you think the Board of Auctioneers and its staff are satisfactorily performing their duties?

| | | |
|------------|-----------|--------------|
| Yes | 36 | 78.3% |
| No | 2 | 4.3% |
| Unknown | 4 | 8.7% |
| No Opinion | 4 | 8.7% |

Respondent 4 “To the degree that they will not investigate (on their own) unlicensed auctioneer and auction house activities.”

10. Has any member of the Board of Auctioneers or its staff asked for money (other than normal fees), services, or any other thing of value in return for performing a board service for you?

| | | |
|------------|-----------|--------------|
| No | 45 | 97.8% |
| No Opinion | 1 | 2.2% |

Respondent 4 “I would give our board a B+. If they would take care of un-licensed activity on their own without making licensed auctioneers stick their own neck out I would give them an A+. I am one of a large group of auctioneers that are really upset over this issue. Something needs to be done about this matter.”

Respondent 5 “Comment: Most of the laws governing professions are designed to curb completion under the guise of protecting the public”

Apprentice Licensee Questionnaire

Letters requesting participation in our survey was sent to 100 Apprentice Licensee holders, of which 46 participated in the survey. The percentages are only of those who responded to the question.

- 1. Do you think regulation of your profession by the Board of Auctioneers is necessary to protect public welfare?**

| | | |
|------------|-----------|--------------|
| Yes | 37 | 80.4% |
| No | 8 | 17.4% |
| No Opinion | 1 | 2.2% |

- 2. Do you think any of the Board of Auctioneer's laws, rules, and policies are an unnecessary restriction on the practice of your profession?**

| | | |
|------------|-----------|--------------|
| Yes | 8 | 17.4% |
| No | 34 | 74.0% |
| Unknown | 2 | 4.3% |
| No Opinion | 2 | 4.3% |

Respondent 44 "Too early to tell."

- 3. Do you think any of the Board of Auctioneers Requirements are irrelevant to the competent practice of your profession?**

| | | |
|------------|-----------|--------------|
| Yes | 13 | 28.3% |
| No | 29 | 63.0% |
| Unknown | 3 | 6.5% |
| No Opinion | 1 | 2.2% |

- 4. Are you adequately informed by the Board of Auctioneers of changes to and interpretations of board's positions, policies, rules, and laws?**

| | | |
|------------|-----------|--------------|
| Yes | 27 | 58.7% |
| No | 8 | 17.4% |
| Unknown | 10 | 21.7% |
| No Opinion | 1 | 2.2% |

- 5. Has the Board of Auctioneers performed your licensing and renewal in a timely manner?**

| | | |
|------------|-----------|---------------|
| Yes | 46 | 100.0% |
| No | 0 | 0.0% |

- 6. What do you think is the most significant issue(s) currently facing your profession in Alabama and what is the Board of Auctioneers doing to address the issue(s)?**

Respondent 1 "No opinion."

Respondent 2 “Gun control and gun safety – enforce more strictly.”

Respondent 5 “No opinion.”

Respondent 6 “I do not know of any major issues.”

Respondent 7 “Advertising Absolute & not sell – not sure if the Board wants to work on this problem.”

Respondent 8 “People that are auctioneering without a license.”

Respondent 10 “No opinion.”

Respondent 12 “More timely communication from the Board. A well run web page & email to licensee would be a great start.”

Respondent 16 “Auctioneers violating the term ‘absolute auction’ thereby creating fraud to the public and placing clients in legal jeopardy.”

Respondent 17 “Unknown at this time.”

Respondent 18 “?”

Respondent 19 “Auctions claiming to be for charity that operates with no rules or restrictions. I’m not aware of any actions by the board; but am sure, hope these auctions are under watch.”

Respondent 20 “Internet auctions.”

Respondent 21 “Personnel who perform investigations of wrongful / corrupt auction businesses do not act swiftly enough to prevent discredit to good honest auction businesses.”

Respondent 23 No opinion.”

Respondent 24 “Ethics in Auctioneering – unknown if any checks regarding how auctioneers are performing their duties to the public”

Respondent 28 “The question of “ebay stores” being required to hold Alabama Auction License.”

Respondent 29 “Professionalism, we need more training for new auctioneers.”

Respondent 30 “I haven’t been licensed long enough to answer this.”

Respondent 31 “Too much gov’t regulation”

Respondent 32 “Biannual renewals – submitted to legislature licensing internet auction companies – submitted to legislature.”

Respondent 33 “Internet auctions performed by non-licensed auctioneers. [REDACTED] in [REDACTED] took a month to sell a collection and 6 months to get my final payment”

Respondent 34 “I am only an apprentice so will not attempt to answer this one.”

Respondent 35 “The economy being bad”

Respondent 36 “Failure to enforce the Absolute Auction closing. To many ??? purchases.”

Respondent 37 “The regular / persistent proposals to incur even more regulations, requirements, fees, etc. creates unnecessary stress on professional members. Thus far, most proposals have been rejected.”

Respondent 38 “Regulation of on line auctions.”

Respondent 39 “Con’t Education requirements, nothing”

Respondent 43 “The passage of laws which allow for unregulated practice such as E-Bay and other internet sights the board has proposed laws to stop this and met with resistance in Montgomery.”

Respondent 44 “I just began my apprenticeship, I am still learning. No opinion yet.”

Respondent 45 “Out of state NSF checks – No laws to assist in retrieving funds, causing loss of revenue.”

No Response 15

7. Do you think the Board of Auctioneers and its staff are satisfactorily performing their duties?

| | | |
|------------|-----------|--------------|
| Yes | 34 | 74.0% |
| No | 2 | 4.3% |
| Unknown | 8 | 17.4% |
| No Opinion | 2 | 4.3% |

8. Has any member of the Board of Auctioneers or its staff asked for money (other than normal fees), services, or any other thing of value in return for performing a board service for you?

| | | |
|-----------|-----------|---------------|
| Yes | 0 | 0.0% |
| No | 46 | 100.0% |

Complainant Questionnaire

Surveys were sent to 47 complainants of which 10 responded. The percentages shown are based on the number who responded to the question.

1. How was your complaint filed with the State Board of Auctioneers?

| | | |
|---------------------|----------|--------------|
| Regular Mail | 8 | 57.1% |
| Phone | 3 | 21.4% |
| Fax | 2 | 14.3% |
| Unknown | 1 | 7.2% |

Respondent 2 – Answered regular mail, phone and fax.

Respondent 8 – Answered regular mail and phone.

Respondent 10 – Answered regular mail and phone.

2. Was receipt of your complaint promptly acknowledged?

| | | |
|------------|----------|--------------|
| Yes | 7 | 70.0% |
| No | 1 | 10.0% |
| Unknown | 2 | 20.0% |

Respondent ? – Comments.

3. If your answer to Question 2 was “YES”, how long after you filed your complaint were you contacted by the State Board of Auctioneers?

| | | |
|-------------------|----------|--------------|
| Within 30 days | 1 | 11.1% |
| More than 30 days | 1 | 11.1% |
| Did not respond | 2 | 22.2% |
| Unknown | 5 | 55.6% |

Respondent 9 – “I don’t recall”

Respondent 2 – “I had to call several times.”

4. Was the person who responded to your complaint knowledgeable and courteous?

| | | |
|-----------------|----------|--------------|
| Courteous | 2 | 22.2% |
| Both | 1 | 11.1% |
| Neither | 2 | 22.2% |
| Unknown | 4 | 44.5% |
| Did not respond | 1 | |

Respondent 2 – “Knew nothing”

5. Did the State Board of Auctioneers communicate the results of investigating your complaint to you?

| | | |
|-----------|----------|--------------|
| Yes | 4 | 40.0% |
| No | 5 | 50.0% |
| Unknown | 1 | 10.0% |

Respondent 2 – “Had to call.”
”

Respondent 4 – “Not satisfied with Investigator or boards attorney.”

Respondent 10 – “?”

6. Do you think the State Board of Auctioneers did everything it could to resolve your complaint?

| | | |
|-----------|----------|--------------|
| No | 7 | 70.0% |
| Unknown | 3 | 30.0% |

Respondent ? – Comments.

7. Were you satisfied with your dealings with the State Board of Auctioneers?

| | | |
|-----------------|----------|--------------|
| Yes | 1 | 11.1% |
| No | 7 | 77.8% |
| Unknown | 1 | 11.1% |
| Did not respond | 1 | |

Respondent 5 – “They said that they believed [REDACTED] [REDACTED] response, and they did not give me a copy of his response.”

Respondent 10 – “No response ever”

APPENDICES

Performance Reports

Fiscal Year 2010

| | | | | | | | | | | | |
|---|---|---------------|--------|---|--------|---------------|--------|----------------|----------------------|--------|--------|
| Agency: 353 - Auctioneers, Alabama State Board of | | | | Program: 653 - PRO AND OCCU LICENSING AND REG | | | | | | | |
| Organization: - | | | | Activity: - | | | | | | | |
| Key Goal: | | | | | | | | | | | |
| Goal 1 | To provide services on-line so that 50% of license renewals are processed via the web by 2010 | | | | | | | | Governor's Priority: | 2 | |
| Objectives and Quarterly Targets: | | | | | | | | | | | |
| Performance Measures | | First Quarter | | Second Quarter | | Third Quarter | | Fourth Quarter | | Annual | |
| Objectives | Unit of Measure | Target | Actual | Target | Actual | Target | Actual | Target | Actual | Target | Actual |
| (O1-Efficiency) Increase number of renewal applications processed by 20%. | Percentage of on-line renewals | -- | 5% | -- | 0 | -- | 0 | -- | 17% | 20 | 22% |

Item # Notes

O1- **Renewal Season Closed on 11/30/09.

| |
|--|
| How have policy decisions and budget determinations made by the governor and the legislature in the fiscal year 2009-10 affected your agency in meeting its desired accomplishments and services? |
| No there have not been any. |
| What administrative improvements did your agency make in fiscal year 2009-10 and what potential improvements do you foresee for future years? Include suggested changes in legislation or administrative procedures which would aid your agency in these improvements. |
| The Board processed and reviewed complaints in a more timely manner this FY and brought some of those to hearings. We hope to get our 2011 proposed legislation introduced and passed to help the Board have more options in protecting the public. |

Fiscal Year 2011

| | |
|--|--|
| Agency: 353 - Auctioneers, Alabama State Board of | Program: 653 - PRO AND OCCU LICENSING AND REG |
| Organization: - | Activity: - |

| Key Goal: | | | |
|-----------|---|----------------------|---|
| Goal 1 | To provide services on-line so that 50% of license renewals are processed via the web by 2011 | Governor's Priority: | 2 |

| Objectives and Quarterly Targets: | | | | | | | | | | | |
|---|--------------------------------|---------------|--------|----------------|---------|---------------|---------|----------------|---------|--------|---------|
| Performance Measures | | First Quarter | | Second Quarter | | Third Quarter | | Fourth Quarter | | Annual | |
| Objectives | Unit of Measure | Target | Actual | Target | Actual* | Target | Actual* | Target | Actual* | Target | Actual* |
| (O1-Efficiency) Increase number of renewal applications processed by 50%. | Percentage of on-line renewals | -- | 0 | -- | -- | -- | -- | -- | -- | 50% | |

* Actual performance data is not currently available for this quarter.

Statutes

CHAPTER 4. AUCTIONEERS.

ARTICLE 1. . GENERAL PROVISIONS.

§ 34-4-1. Short title.

Current through the end of the 2010 Regular Session.

This chapter shall be known and may be cited as the Auctioneers License Act.

CREDIT(S)

(Acts 1973, No. 811, p. 1236, § 1.)

§ 34-4-2. Definitions.

Current through the end of the 2010 Regular Session.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed by this section:

(1) Auctioneer. Any person who has graduated from an accredited auction school and has one year's experience as an apprentice auctioneer or has two years' experience as an apprentice auctioneer in bid calling, for a fee, commission or any other valuable consideration, or with the intention or expectation of receiving the same, by the means of or process of an auction or sale at auction, offers, negotiates, or attempts to negotiate a listing contract, sale, purchase, or exchange of goods, chattels, merchandise, real or personal property or of any other commodity which may lawfully be kept or offered for sale by or at public auction.

(2) Board. The State Board of Auctioneers.

(3) Apprentice auctioneer. Any person who for compensation or valuable consideration or otherwise is employed, directly or indirectly, by an auctioneer to deal or engage in any activity listed in subdivision (1) of this section.

(4) Goods. Any chattels, goods, merchandise, real or personal property or commodities of any form or type which may lawfully be kept or offered for sale.

(5) Persons. Individuals, associations, partnerships, and corporations, and the word "persons" shall also include the officers, directors, and employees of a corporation.

(6) Auction business or Business of auctioneering. The performing of any of the acts of an auctioneer or apprentice auctioneer as defined in this section.

CREDIT(S)

(Acts 1973, No. 811, p. 1236, § 2.)

§ 34-4-3. Exemptions from chapter.

Current through the end of the 2010 Regular Session.

The provisions of this chapter and the terms "auctioneer," "apprentice auctioneer," "auction business or business of auctioneering," as defined in Section 34-4-2, shall not apply to and shall not include any person acting as a receiver, trustee in bankruptcy, guardian, administrator, or

executor or any such person acting under order of any court, nor shall they include a trustee acting under a trust agreement, deed of trust or will, nor shall they include sales at auction conducted by or under the direction of any public authority or pursuant to any judicial order or decree.

CREDIT(S)

(Acts 1973, No. 811, p. 1236, § 4.)

§ 34-4-4. Enforcement of chapter.

Current through the end of the 2010 Regular Session.

The Board of Auctioneers is hereby authorized and empowered to adopt, fix, and establish all rules and regulations necessary for the proper administration and enforcement of this chapter.

CREDIT(S)

(Acts 1973, No. 811, p. 1236, § 7.)

§ 34-4-5. Actions for collection of compensation.

Current through the end of the 2010 Regular Session.

No person engaged in the business of or acting in the capacity of an auctioneer or an apprentice auctioneer shall bring or maintain any action in the courts of this state for the collection of compensation for any services performed as an auctioneer or apprentice auctioneer without first alleging and proving that he or she was a duly licensed auctioneer or apprentice auctioneer at the time the alleged cause of action arose. No apprentice auctioneer shall have the right to institute an action in his or her own name for the recovery of a commission, fee, or compensation for services as an apprentice auctioneer, but any such action shall be instituted and brought by the licensed auctioneer employing the apprentice auctioneer. Nothing contained herein shall be construed so as to prevent a licensed apprentice auctioneer from suing his or her employing auctioneer for any compensation, fees, or commissions due him or her from such auctioneer.

CREDIT(S)

(Acts 1973, No. 811, p. 1236, § 20.)

§ 34-4-6. Limitation on authority of political subdivisions.

Current through the end of the 2010 Regular Session.

No political subdivision of this state shall have the power or authority after September 5, 1973, to levy or collect any license tax from or to require the licensing in any manner of any auctioneer who has been licensed and bonded under this chapter in lieu of the license tax or license fee heretofore imposed by any political subdivision.

CREDIT(S)

(Acts 1973, No. 811, p. 1236, § 24; Act 98-271, p. 440, § 1.)

§ 34-4-7. Penalties.

Current through the end of the 2010 Regular Session.

(a) Any person violating this chapter, shall, upon conviction, be guilty of a Class A misdemeanor, subject to a fine or imprisonment, or both.

(b) Any person, having previously been convicted for violating this chapter, who subsequently violates this chapter, shall, upon conviction for the subsequent violation, be guilty of a Class C felony, subject to a fine or imprisonment, or both.

CREDIT(S)

(Acts 1973, No. 811, p. 1236, § 22; Act 98-271, p. 440, § 1.)

ARTICLE 2. . LICENSES.

§ 34-4-20. Required.

Current through the end of the 2010 Regular Session.

It shall be unlawful for any person, partnership, association, or corporation in any county of this state to act as an auctioneer or apprentice auctioneer, or directly or indirectly to engage or assume to engage in the auction business and act as either without first obtaining a license issued by the State Board of Auctioneers, under the provisions of this chapter.

It shall be unlawful for any person not licensed under the provisions of this chapter to advertise that he or she is in the auction business or to do anything to leave any impression upon the public that he or she is an auctioneer or is so engaged.

CREDIT(S)

(Acts 1973, No. 811, p. 1236, §§ 3, 19.)

§ 34-4-21. Application and examination; fees; expiration, renewal of licenses; continuing education; discharge of apprentice; change of address.

Current through the end of the 2010 Regular Session.

(a) Any person desiring to enter into the auction business and obtain a license as an auctioneer or apprentice auctioneer shall make written application for a license to the board. Each application shall be accompanied by an examination fee of an amount not to exceed one hundred dollars (\$100) which shall be collected from each applicant to defray the expenses of the examination. A fee of an amount not to exceed one hundred fifty dollars (\$150) shall also be collected from each nonresident applicant, or resident licensee of another state, who seeks licensing by reciprocity. The application shall be submitted on forms prepared and furnished by the board.

(b) Each applicant for a license as an auctioneer shall be 19 years of age or over, and each applicant for a license as an apprentice auctioneer shall be 18 years of age or over and shall be a citizen of the United States or legally present in this state. Each applicant for an auctioneer's

license shall: (1) have completed a prescribed course of study at an accredited auctioneering school approved by the board; (2) have served one year as an apprentice auctioneer under a licensed auctioneer in this state; (3) have been the principal auctioneer in at least five auctions of either real or personal property during this period of time; and (4) furnish satisfactory proof of these requirements to the board. An application shall also be accompanied by a recommendation of an employing auctioneer. If an applicant has not completed a course of study at an accredited auctioneering school, then he or she shall be required to serve two years as an apprentice under a licensed auctioneer, and shall have been the principal auctioneer in at least 10 auctions of real or personal property.

(c) Any person who files an application with the board in the proper manner shall be entitled to take an oral and written examination to determine his or her qualifications. The board shall require applicants to take and pass a written and oral examination establishing in a manner satisfactory to the board that the applicant has a general knowledge of ethics, reading, writing, spelling, elementary arithmetic, elementary principles of land economics, and a general knowledge of the statutes of this state relating to the bulk sales, auctions, brokerage, and this chapter. The examination for an auctioneer's license shall be of a more exacting nature and scope than the examination for an apprentice auctioneer. The board shall, through application and examination, determine whether the applicant is of good repute, trustworthy, honest, and competent to transact the business of an auctioneer, or of an apprentice auctioneer, in a manner that safeguards the interest of the public. The board shall require, and it shall be the responsibility of any applicant for an initial, renewal, or reciprocal license to disclose any prior felony conviction, any prior misdemeanor conviction involving moral turpitude, any pending criminal arrest of any nature except misdemeanor traffic violations, and any prior or pending disciplinary proceedings against the applicant before a board of auctioneers or real estate commission in this or any other state. All auctioneers, apprentice auctioneers, and auction firms are under a continuing duty to report to the board any and all such criminal arrests, charges, convictions, or disciplinary proceedings which they may incur, as well as any civil suits involving them. The board must receive notice of any such arrest, charge, criminal conviction, or commencement of disciplinary proceedings within 30 days of its occurrence. Notice of the commencement of any civil suit must be received by the board within 30 days after service of the complaint upon the defendant in the action.

(d) The license fee for each auctioneer shall be an amount to be determined by the board, not to exceed two hundred fifty dollars (\$250), and the license fee for each apprentice auctioneer shall be an amount to be determined by the board, not to exceed one hundred dollars (\$100). The license fees for an auctioneer shall not be increased more than twenty-five dollars (\$25) in any given year.

(e) All licenses shall expire on September 30 of each year following issuance thereof and may be renewed upon payment of the appropriate license fee as required by this chapter. Renewal of a license may be effected at any time during the months indicated preceding the date of expiration. No examination shall be required for the renewal of any license, unless the license has been revoked or suspended. If a licensee fails to renew his or her license by the deadline of each year, he or she may have his or her license renewed within 60 days after the expiration date, upon payment of the required fee and a late fee of twenty-five dollars (\$25) for apprentices and fifty dollars (\$50) for auctioneers. If a licensee elects not to pay the penalty and renew his or her license, he or she shall submit an application, pay the examination fee, and take the examination required for new licensees.

(f) The board shall adopt a program of continuing education for its licensees. No licensee shall have his or her license renewed unless, in addition to any other requirements of this chapter, the minimum annual continuing education requirements are met. The continuing education program shall not include testing or examination of the licensees in any manner. Any licensee 65 years of age or older shall be exempt from the continuing education requirement.

(g) The board shall prepare and deliver to each licensee a license certificate and pocket card. The certificate shall be displayed openly at all times in the office of the licensee. The certificate and the pocket card of the apprentice auctioneer shall contain his or her name as well as that of the auctioneer under whose supervision he or she is employed.

(h) When any auctioneer discharges an apprentice, or terminates his or her employment with the auctioneer for any reason, the auctioneer shall deliver or mail by registered or certified mail to the board the license of the discharged apprentice auctioneer. It shall be unlawful for any apprentice auctioneer to perform any of the acts contemplated by this chapter, either directly or indirectly under authority of his or her license, until the apprentice auctioneer receives a new license bearing the name and address of his or her new employer. No more than one license shall be issued to any apprentice auctioneer for the same period of time.

(i) Written notice shall be given immediately to the board by each licensee of any change in his or her mailing address and the board shall issue a new license for the unexpired period. A change of mailing address without notification to the board shall automatically cancel the license previously issued. For changing a mailing address and issuance of a new license, the board shall collect a fee of five dollars (\$5). Each prior license shall be returned or accounted for to the board and be canceled before the issuance of the new license. The board may require other proof considered desirable with due regard to the paramount interest of the public in the issuance of the license.

(j) Pursuant to Sections 41-22-1 to 41-22-27, inclusive (the Alabama Administrative Procedure Act), the board may make and enforce any necessary and reasonable rules and regulations pursuant to the application for any license.

CREDIT(S)

(Acts 1973, No. 811, p. 1236, § 11; Acts 1981, No. 81-378, p. 555, § 4; Acts 1988, No. 88-138, p. 201, § 3; Acts 1992, No. 92-119, p. 197, § 3; Act 98-271, p. 440, § 1; Act 2004-74, p. 94, § 3; Act 2008-81, p. 103, § 3.)

§ 34-4-22. Register of applicants.

Current through the end of the 2010 Regular Session.

The secretary of the board shall keep a register of all applicants for license, showing for each the date of application, name, place of business, place of residence, and whether the license was granted or refused.

CREDIT(S)

(Acts 1973, No. 811, p. 1236, § 12.)

§ 34-4-23. License as evidence of rights and privileges.

Current through the end of the 2010 Regular Session.

The issuance of a license by the board shall be evidence that the person, partnership, association, or corporation named therein is entitled to all the rights and privileges of an auctioneer or apprentice auctioneer while the license remains unrevoked or unexpired.

CREDIT(S)

(Acts 1973, No. 811, p. 1236, § 16.)

§ 34-4-24. Bond required.

Current through the end of the 2010 Regular Session.

Each application for an auctioneer's or apprentice auctioneer's license shall be accompanied by a bond in the amount of \$10,000.00. The bond shall be a cash bond or a surety bond and, if the latter, shall be executed by a surety company authorized to do business in this state. The bond shall be made payable to the board and conditioned upon the applicant conducting his or her business in accordance with the provisions and intent of this chapter. The bond shall be in a form approved by the board. No license may be issued until such a bond has been filed with the board.

CREDIT(S)

(Acts 1973, No. 811, p. 1236, § 17; Acts 1981, No. 81-378, p. 555, § 4.)

§ 34-4-25. Licensing of nonresidents.

Current through the end of the 2010 Regular Session.

A nonresident of this state, or a resident of this state who is licensed by another state, may become an auctioneer or apprentice auctioneer in this state by conforming to this chapter, or in the case of a nonresident from a nonlicensing state, such person may be licensed provided an examination is given and passed and the person has at least five years' experience in the auction business. Provided further, that if a nonresident auctioneer or apprentice auctioneer, or a resident who is licensed as an auctioneer or apprentice auctioneer in another state, has a lawsuit or other legal action filed and pending against him or her in this or any other state, the board shall not issue a license to him or her until final disposition of the action, and then only at the discretion of the board. The terms "auctioneer" and "apprentice auctioneer" shall include any individual, firm, company, partnership, association, or corporation by whom the "auctioneer" or "apprentice auctioneer" is employed. The board may recognize a license issued by any other state to a resident of this state or a nonresident auctioneer or apprentice auctioneer if the other state reciprocates with Alabama in like manner and if the licensing requirements of the state include the passing of an examination of equal or higher standards than those required by this state. The nonresident licensee, or resident licensee of another state, shall, however, be required to secure a license from the board which shall be issued upon application therefor, accompanied by payment of the license fee required by this chapter and the filing of a certified copy of the license of the

applicant issued by the other state. Every applicant shall file an irrevocable consent that actions may be commenced against the applicant in the proper court in the county in this state in which a cause of action may arise, in which the plaintiff may reside, by service of any process or pleadings authorized by laws of this state on the board, or a deputy to be designated by the board, the consent stipulating and agreeing that service of process or pleading shall be begun and held in all courts to be as valid and binding as if due service had been made upon the applicant in this state. The consent shall be duly acknowledged and, if made by a corporation, shall be authenticated by the seal of the corporation. In case of any process or pleadings mentioned in this chapter being served upon the board or upon a deputy to be designated by the board, duplicated copies shall be made, one of which shall be filed in the office of the secretary of the board, and the other immediately forwarded by registered or certified mail to the main office of the applicant against which process or pleadings are directed. No default in the proceedings or action shall be taken unless it shall be made to appear by affidavit of a member of the board, or a deputy designated by the board, that a copy of the process or pleadings was mailed to the defendant as herein required. Judgment by default shall be taken in any action or proceedings within 20 days after the date of the mailing of process or pleadings to the defendant.

CREDIT(S)

(Acts 1973, No. 811, p. 1236, § 18; Acts 1981, No. 81-378, p. 555, § 4; Act 2004-74, p. 94, § 3.)

§ 34-4-26. Mailing address.

Current through the end of the 2010 Regular Session.

Each licensee must have a definite mailing address such as street name and number or RFD number. A post office box only will not be sufficient.

CREDIT(S)

(Acts 1973, No. 811, p. 1236, § 19.)

§ 34-4-27. Privilege licenses.

Current through the end of the 2010 Regular Session.

Each auctioneer shall annually pay one state license in an amount not to exceed two hundred fifty dollars (\$250). Each auctioneer shall also annually pay a county license of twenty-five dollars (\$25) in each county where he or she sells by auction. No privilege license shall be required for any apprentice auctioneer when he or she is listed as the principal auctioneer. No license shall be required for any auctioneer who conducts an auction, without compensation for himself or herself, where all proceeds from the auction go to the benefit of any charitable organization. The term "auctioneer" shall include any person selling real estate, goods, wares, merchandise, automobiles, livestock, or other things of value at public outcry. Sales at public outcry may be made for compensation without license involving any of the following:

(1) Sales for the estate of a decedent.

(2) Sales of property conveyed by deed of trust, mortgage, judgment, or ordered to be sold according to the mortgage, judgment, or order.

(3) All sales under legal process. CREDIT(S) (Acts 1973, No. 811, p. 1236, § 23; Act 98-271, p. 440, § 1.)

§ 34-4-28. Authority under license not transferable; effect of license issued to corporation, association or partnership.

Current through the end of the 2010 Regular Session.

Authority to transact business as an auctioneer under any license issued by the board shall be restricted to the person named in such license and shall not inure to the benefit of any other person.

Where an auctioneer's license shall be issued to a corporation or association, authority to transact business thereunder shall be limited to one officer of such corporation or association to be designated in the application and named in the license. Each other officer of such association or corporation desiring to act as an auctioneer in connection with the business of the association or corporation, or otherwise, shall be required to make application for and take out a separate license in his or her own name individually. Where the licensee is a copartnership, the license issued to such copartnership shall confer authority to act as auctioneer upon one member of such copartnership only, who shall be designated in the application and named in the license. All the other members of the copartnership desiring to act as auctioneers in connection with the business of the partnership or otherwise shall be required to apply for and take out individual licenses in their own names.

CREDIT(S)

(Acts 1973, No. 811, p. 1236, § 25.)

§ 34-4-29. Revocation or suspension--Procedure generally; grounds; notice and hearing required before denial, suspension, or revocation; administrative fines.

Current through the end of the 2010 Regular Session.

- (a) The board may revoke or suspend licenses as provided in this section.
- (b) The board may, upon its own motion, and shall, upon the verified complaint in writing of any person containing evidence, documentary or otherwise, that makes out a prima facie case, investigate the actions of any auctioneer, apprentice auctioneer, or any person who assumes to act in either capacity, and hold a hearing on the complaint.
- (c) The board may suspend or revoke any license which has been issued based on false or fraudulent representations. The board may also suspend or revoke the license of any licensee for any of the following acts:
 - (1) Making any substantial misrepresentation.
 - (2) Pursuing a continued and flagrant course of misrepresentation or making false promises through agents, advertising, or otherwise.
 - (3) Accepting valuable consideration as an apprentice auctioneer for the performance of any of the acts specified in this chapter from any person other than his or her employer auctioneer.
 - (4) Failing to account for or remit, within a reasonable time, any money belonging to others that comes into his or her possession, commingling funds of others with his or her own, or failing to keep funds of others in an escrow or trustee account.

- (5) Paying valuable consideration to any person for services performed in violation of this chapter.
- (6) Being convicted in a court of competent jurisdiction of this or any other state of a criminal offense involving moral turpitude or a felony.
- (7) Violation of any rule or regulation promulgated by the board.
- (8) Failure to furnish voluntarily at the time of execution copies of all written instruments prepared by the auctioneer or apprentice auctioneer.
- (9) Any conduct of any auctioneer which demonstrates bad faith, dishonesty, incompetency, or untruthfulness.
- (10) Any conduct of any auctioneer which demonstrates improper, fraudulent, or dishonest dealings.
- (11) Failing prior to the sale at public auction to enter into a written contract with the owner or cosignee of any property to be sold containing the terms and conditions upon which the licensee received the property for sale.
- (12) Failure by the auctioneer conducting an auction to show his or her name and state license number in the advertising of the auction.
- (13) Presenting a worthless check to the board.
- (d) Before denying an application for license or suspending or revoking any license, the board shall hold a hearing and shall, at least 21 days prior to the date set for the hearing, notify in writing the accused licensee of the charges made or the question to be determined, including notice of the time and place of the hearing, and afford the licensee an opportunity to be present, be heard in person or by counsel, and to offer evidence orally, or by affidavit or deposition. Written notice may be served by delivery of the notice personally to the applicant or licensee or by mailing the notice by registered or certified mail to the last known mailing address of the applicant or licensee. If the applicant or licensee is an apprentice auctioneer, the board shall also notify the auctioneer employing him or her, or whose employ he or she is about to enter, by mailing notice by registered or certified mail to the auctioneer's last known address. The hearing shall be held at a time and place prescribed by the board.
- (e) In addition to the disciplinary powers granted in this section, the board may levy and collect administrative fines for serious violations of this chapter or the rules and regulations of the board of not less than \$200.00 or more than \$500.00 for each violation.

CREDIT(S)

(Acts 1973, No. 811, p. 1236, § 13; Acts 1992, No. 92-119, p. 197, § 3.)

§ 34-4-30. Revocation or suspension--Procedure for hearings; immunity of board.

Current through the end of the 2010 Regular Session.

- (a) The board may administer oaths and prescribe all necessary and reasonable rules for the conduct of a hearing. The board may take testimony of any person by deposition, with the same fees and mileage and in the same manner as prescribed by law in judicial procedure of courts of this state in civil cases. The fees and mileage shall be paid by the party at whose request the witness is subpoenaed.
- (b) If the board determines that the licensee is guilty under this chapter, his or her license may be suspended or revoked.

(c) The affirmative vote of a majority of the board shall be necessary to revoke or suspend a license.

(d) The board is declared to be a quasi judicial body, and the members or the employees of the board are granted immunity from civil liability and shall not be liable for damages therefrom when acting in the performance of their duties as described in this chapter.

CREDIT(S)

(Acts 1973, No. 811, p. 1236, § 14; Acts 1981, No. 81-378, p. 555, § 4; Act 98-271, p. 440, § 1.)

§ 34-4-31. Revocation or suspension--Resulting from judgment in damage action.

Current through the end of the 2010 Regular Session.

Whenever any person, partnership, association or corporation claiming to have been injured or damaged by the gross negligence, incompetency, fraud, dishonesty, or misconduct on the part of any licensee following the calling or engaging in the business herein described shall file an action upon such claim against such licensee in any court of record in this state and shall recover judgment thereon, such court may as part of its judgment in such case, if it deems it a proper case in which to do so, revoke the defendant's license, which shall not be reissued to such licensee except upon unanimous vote of all members of the board in favor of such reissuance and only then after the lapse of a period of 90 days from the date of such revocation.

CREDIT(S)

(Acts 1973, No. 811, p. 1236, § 15.)

§ 34-4-32. Effect on license of apprentice auctioneer.

Current through the end of the 2010 Regular Session.

The revocation of an auctioneer's license shall automatically suspend every apprentice auctioneer's license granted to any person by virtue of his or her employment by the auctioneer whose license has been revoked. The apprentice auctioneer may retain his or her license by transferring to the employment of another licensed auctioneer within 21 days.

CREDIT(S)

(Acts 1973, No. 811, p. 1236, § 21.)

§ 34-4-33. Revocation or suspension--Notice of appeal; decision stayed; record and complaint filed; procedures; costs.

Current through the end of the 2010 Regular Session.

(a) Findings of the board with regard to the suspension or revocation of a license or the imposition of an administrative fine shall be final unless within 30 days after the date of the final order of the board, the applicant, or otherwise known as the accused, whether an individual or a corporation registered in Alabama, files a notice of appeal in the Circuit Court of Montgomery County. A party appealing a decision shall post a two hundred dollar (\$200) appeal bond with

the clerk of the circuit court. The circuit clerk shall notify the board of the appeal after the clerk has approved the appellant's bond.

(b) An appeal does not act as supersedeas, but the decision of the board may be stayed by the court pending the appeal.

(c) The board shall within 30 days of service of the notice of appeal, or within the additional time as the court may allow, file the record in the case with the circuit clerk. A complaint setting forth with particularity the issues raised on appeal shall be filed with the court and served on the board by the appealing party within 30 days after the notice of appeal is filed. The action shall be conducted in accordance with the Alabama Rules of Civil Procedure.

(d) The appeal shall be conducted by the court without a jury and shall be confined to the record made before the board. The decision of the board shall be taken as prima facie just and reasonable and the court shall not substitute its judgment for that of the board as to the weight of the evidence on questions of fact. The court shall affirm or reverse, in part or in whole, or modify the decision of the board. The court may remand the case to the board for further proceedings.

(e) If the decision of the board is affirmed in whole or in part, the cost of the appeal shall be taxed against the party taking the appeal. If the decision of the board is not affirmed, the court shall tax the costs of appeal against the board.

CREDIT(S)

(Act 98-271, p. 440, § 2.)

ARTICLE 3. . BOARD OF AUCTIONEERS.

§ 34-4-50. Appointment; composition; powers and duties; expenses; seal; public records.

Current through the end of the 2010 Regular Session.

(a) The Governor shall appoint a State Board of Auctioneers to be comprised of seven auctioneer members and one consumer member. Except as otherwise provided by Act 98-271, all appointments and subsequent appointments by the Governor shall be for a term of five years, with each auctioneer member appointed being a resident of a different congressional district and the consumer member being a resident of and appointed from the state at-large. Within 60 days after July 1, 1998, the Governor shall appoint one additional auctioneer member provided for herein for a term of two years and the other additional auctioneer member provided for in Act 98-271 shall be appointed by the Governor for a term of four years. Thereafter, subsequent appointments shall be for a term of five years. Appointments shall end on the anniversary date of the original appointments, except appointments to fill a vacancy which shall be for the unexpired term only. No member shall serve more than two consecutive terms of office. Each member of the board and his or her successor shall have been a resident and citizen of this state for at least five years prior to his or her appointment. Each auctioneer member of the board and his or her successor shall have been a licensed auctioneer in this state for at least five years. Each member shall hold office until his or her successor is appointed by the Governor. The board shall reflect the racial and gender composition of licensed auctioneers in the state.

(b) Each auctioneer member of the board shall be of good moral character and shall have been licensed by the board and actively engaged in the auction business for at least five years prior to the appointment.

(c) On the appointment of a new auctioneer board member, the board shall, at its next meeting, elect one of its members as chair, one member as vice-chair, one member as secretary, and any other officers deemed necessary. The board may do all things necessary and convenient for carrying into effect this chapter. The board may make bylaws, rules, and regulations not inconsistent with this chapter or other general laws of the state.

(d) Except as otherwise provided in Section 34-4-53, members of the board, board staff, and board attorneys shall receive the same per diem and travel allowance paid to state employees for each day they meet to conduct the official business of the board.

(e) The board may employ an administrator who shall be exempt from the classified service of the state, and other staff members necessary to discharge board duties and administer this chapter. The administrator shall be employed on the basis of his or her education, experience, and skills in administration and management. The board shall determine the duties and fix the compensation of the administrator and other staff members, subject to the general laws of the state.

(f) The board shall adopt a seal by which the board shall authenticate records and documents. On the seal shall be the words "State Board of Auctioneers." Copies of all records and documents in the office of the board that are duly certified and authenticated by the seal of the board shall be received in evidence in all courts equally and with the same effect as the original. All public records kept in the office of the board shall be open to public inspection during reasonable hours.

CREDIT(S)

(Acts 1973, No. 811, p. 1236, § 6; Acts 1981, No. 81-378, p. 555, § 4; Acts 1988, No. 88-138, p. 201, § 3; Acts 1992, No. 92-119, p. 197, § 3; Act 98-271, p. 440, § 1; Act 2004-74, p. 94, § 3.)

§ 34-4-51. Certificates of appointment to board; legal assistance; prosecution of complaints.

Current through the end of the 2010 Regular Session.

Each member of the board shall receive a certificate of appointment from the Governor before entering upon the discharge of the duties of his or her office. The board, or any committee thereof, shall be entitled to the services of the state Attorney General, in connection with the affairs of the board, or may, on approval of the Attorney General, employ an attorney to assist or represent it in the enforcement of this chapter before any court of competent jurisdiction, and it may take the necessary legal steps through the proper legal officers of the state to enforce the provisions of this chapter and collect the penalties provided herein. Complaints shall be prosecuted in the name of the State Board of Auctioneers.

CREDIT(S)

(Acts 1973, No. 811, p. 1236, § 5.)

§ 34-4-52. Meetings; quorum.

Current through the end of the 2010 Regular Session.

The board shall meet at least four times each year, in January, April, July, and October, for the purpose of transacting business as may properly come before the board. Special meetings of the board shall be held at such times as the board may provide in the bylaws the board may adopt. Four members shall constitute a quorum at a board meeting. Due notice of each meeting and the time and place thereof shall be given each member in such manner as the bylaws may provide.

CREDIT(S)

(Acts 1973, No. 811, p. 1236, § 8; Act 2004-74, p. 94, § 3.)

§ 34-4-53. Compensation of members.

Current through the end of the 2010 Regular Session.

Members of the board shall each receive compensation in an amount of three hundred dollars (\$300) per day and travel allowance as is paid to state employees for each day spent on work made necessary by this chapter.

CREDIT(S)

(Acts 1973, No. 811, p. 1236, § 9; Acts 1988, No. 88-138, p. 201, § 3; Act 2004-74, p. 94, § 3.)

§ 34-4-54. Record of proceedings; funds; audit.

Current through the end of the 2010 Regular Session.

The secretary of the board shall keep a record of the proceedings of the board. Within 60 days after September 5, 1973, it shall be the duty of the board to select a depository in the same manner and form as now provided by law and deposit all funds received by the board, and all funds thereafter collected shall be so deposited and maintained, and disbursements shall be so made on checks signed by the secretary and countersigned by the chairman. Within 60 days following April 4, 1988, and thereafter, the board shall deposit all the funds of the board into the General Fund of the State Treasury into an account hereby established to be known as the "Board of Auctioneers Account."

CREDIT(S)

(Acts 1973, No. 811, p. 1236, § 10; Acts 1988, No. 88-138, p. 201, § 3.)

Board Members

ALABAMA STATE BOARD OF AUCTIONEERS

610 SOUTH McDONOUGH STREET
MONTGOMERY, AL 36104
334-269-9990 FAX 334-263-6115
E-mail: auctioneers@warrenandco.com
www.auctioneer.alabama.gov



May 4, 2011

Robin Hutcheson
Examiners of Public Accounts
Post Office Box 302251
Montgomery, Alabama 36130-2251

Dear Ms. Hutcheson:

Please find attached a list of all currently appointed Board members along with their contact information, districts and term expirations.

Please let me know if you need any additional information. Thank you for your assistance and cooperation in this matter.

Sincerely,

A handwritten signature in dark ink, consisting of a series of loops and a long horizontal stroke extending to the right.

Keith E. Warren
Executive Director

ALABAMA STATE BOARD OF AUCTIONEERS
610 South McDonough Street
Montgomery, Alabama 36104
Phone: 334/269-9990 FAX: 334/263-6115
E-mail: auctioneers@warrenandco.com
Website: www.auctioneer.alabama.gov

Mr. Ken Garner
Chair

Athens, Alabama
5th Congressional District
Term: 10/18/10 to 10/30/15
Appointed by: Gov. Bob Riley
Male, Caucasian

Mr. James Michael Langford
Member

Tuscaloosa, Alabama
7th Congressional District
Term: 10/31/10 to 10/30/15
Appointed by: Gov. Bob Riley
Male, Caucasian

Mr. Bryant S. Wood
Vice Chair

Montgomery, Alabama
2nd Congressional District
Term: 01/29/08 to 10/18/12
Appointed by: Gov. Bob Riley
Male, Caucasian

Mr. Bryan C. Knox
Secretary

Gardendale, Alabama
6th Congressional District
Term: 12/05/08 to 10/31/13
Appointed by: Gov. Bob Riley

Mr. Austin L. "Buddy" Ray, Jr.
Member

Mobile, Alabama
1st Congressional District
Term: 12/22/06 to 10/18/11
Appointed by: Gov. Bob Riley

Mr. David B. Starnes
Consumer Member

Prattville, Alabama
Term: 12/22/06 to 10/30/11
Appointed by: Gov. Bob Riley
Male, Caucasian

Mr. Johnny Vetra
Member

Talladega, Alabama
Term: 08/08/07 to 10/30/11
Appointed by: Gov. Bob Riley
Male, Caucasian

Mr. Howard Mark Lane
Member

Russellville, Alabama
4th Congressional District
Term: 01/29/08 to 10/18/12
Appointed by: Gov. Bob Riley
Male, Caucasian

RESPONSES TO SIGNIFICANT ISSUES

ALABAMA STATE BOARD OF AUCTIONEERS

610 SOUTH McDONOUGH STREET
MONTGOMERY, AL 36104
334-269-9990 FAX 334-263-6115
E-mail: auctioneers@warrenandco.com
www.auctioneer.alabama.gov



August 9, 2011

John E. Norris
Director, Operational Division
Examiners of Public Accounts
State of Alabama
Post Office Box 302251
Montgomery, Alabama 36130-2251

Dear Mr. Norris:

Please find enclosed the Board's responses to the Significant Issues outlined in the report to the Sunset Committee for the Board of Auctioneers. As always, we appreciate all the guidance and assistance we received from your department and look forward to a great continued working relationship.

Please do not hesitate to contact me should you have any questions pertaining to any of the responses to the significant issues. Thank you for your assistance and cooperation in this matter.

Sincerely,

A handwritten signature in blue ink, consisting of a series of loops and a long horizontal stroke extending to the right.

Keith E. Warren
Executive Director

RESPONSE TO SIGNIFICANT ISSUES
ALABAMA STATE BOARD OF AUCTIONEERS

August 9, 2011

Significant Issue 2011-01

The Board has addressed this issue many times over the past years. There are six hours required during a two year period therefore allowing two years to obtain six hours instead of requiring six hours per year. Also, any licensee over the age of sixty-five is not required to obtain continuing education to renew their license. The Board approves continuing education providers and many of those providers offer online courses which eliminates travel costs and time away from your job. The Board has sponsored several continuing education seminars for licensees at no cost but due to the current financial constraints, was unable to provide this service to the licensees for this 2011 renewal period. The Board is hopeful to continue this practice once adequate funding is available.

Significant Issue 2011-02

The Board has pursued legislation for the last few years regarding various changes to the current Alabama Auctioneers Board statute. One of the major changes would be jurisdiction over internet auctions being conducted or being offered inside the State of Alabama. The Board requested an opinion from the Attorney General on two different occasions resulting in almost the same response, if the bids are not live, then the Board does not have jurisdiction over a consignment shop or internet services provider who is acting solely between the seller and the buyer. There are many Alabama Auction companies that provide this service during live auctions however; the Board does not have jurisdiction should a complaint filed against the auction company regarding the internet process. The Board only has jurisdiction over any discrepancy that may have happened during the live part of the auction.

There are several changes in this proposed legislation allowing for longer licensing periods, creating an inactive status for those that are not currently in the auction business, create a Special Revenue Fund in the State Treasury to allow the Board to deposit its funds which would eliminate Prior Finding 2007-02, as well as provide for updated definitions and investigation/complaint procedures. The Board will continue to pursue this legislation again during the upcoming 2012 Regular Legislative Session.

Significant Issue 2011-03

The Board has experienced a decline in the number of licensees over the past few years. The economy has definitely taken a toll on the smaller auctions and auctioneers and some people simply cannot afford to renew their license. The Board has increased license fees to try to deter its financial decline and has made various adjustments to its financial operations to decrease expenses as much as possible. The Board's contract investigator also works for Warren & Company, Inc. and has conducted investigations without it being an additional expense to the Board. The Board has also utilized every procedure to settle complaints without conducting an administrative hearing before the Board which is a considerable expense within itself. The Board is using every tactic and angle to not create a problem in protecting the consumers and citizens of the State of Alabama.

Significant Issue 2011-04

The Board notifies licensees of the expiration of their license 60 days prior September 30th. This 60 day notification period has been consistently practiced by the Board for many years and no issues have ever arisen regarding this practice of the Board. The Board will review the absence of this process in the statute prior to the 2012 Regular Legislative Session.

STATUS OF PRIOR FINDINGS/SIGNIFICANT ISSUES

Prior Finding 2007-02

The Board has included this significant change in its legislation since 2007 which has not successfully been passed by the legislature. The Board will continue its efforts to have this corrected.